

FACT SHEET: Understanding the Pipeline Permitting Process

The Minnesota Public Utilities Commission (PUC) is a regulatory body that operates independently of the Administration. The PUC regulates electric, natural gas, oil pipeline, and telephone utilities that operate within the State of Minnesota. To learn more about the PUC, [CLICK HERE](#).

This week, the PUC approved Enbridge Energy Limited's request for a [Certificate of Need](#) to construct a new [Line 3 Oil Pipeline](#) in northern Minnesota. In order to proceed in the permitting process for construction of a new pipeline, Enbridge must also receive a [Route Permit](#) from the PUC. The Commission will continue hearings before deciding whether to grant the project a Route Permit. Both approvals are required under state law in order for the project to move forward.

2 Approvals Needed from the Minnesota Public Utilities Commission

- [CERTIFICATE OF NEED](#) – State law requires that any proposed large energy facility receive a Certificate of Need from the Public Utilities Commission. For pipelines, this means any pipeline greater than six inches in diameter and having more than 50 miles of its length in Minnesota used for the transportation of coal, crude petroleum or petroleum fuels or oil, or their derivatives; or any pipeline for transporting natural or synthetic gas at pressures in excess of 200 pounds per square inch with more than 50 miles of its length in Minnesota. ([Minnesota Statute 216B.2421](#))
- [ROUTE PERMIT](#) – State law ([Minnesota Statute 216G](#)) and rules ([Minnesota R. Chapter 7852](#)) require a specific review process for approving the routes of pipeline projects. An applicant must identify its preferred route and at least one alternative. Once the PUC finds an application is substantially complete to begin the review process the staffs of the Commission and the Energy Environmental Review and Analysis (EERA) unit hold public information meetings and solicit comments on the proposed pipeline route and to solicit additional route alternatives from the public. The PUC determines which alternative routes will be considered and requests the Department of Commerce to perform an environmental review on the applicant's proposed route and the alternative routes that have been identified. The PUC then uses the criteria set out in [Minnesota R. 7852.1900](#) in selecting a route and issuing a pipeline Route Permit.

29 Additional Permits Needed from Local, State and Federal Governments

In addition to the Certificate of Need and Route Permit, which are under the purview of the Public Utilities Commission, Enbridge is also required by law to apply for and obtain the following permits from local, state, and federal jurisdictions before it can move forward with the proposed pipeline project. To learn more about these permit approval requirements, [CLICK HERE](#).

| Unit of Government | Type of Permit Application | Reason Required |
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| U.S. Environmental Protection Agency (EPA), Region 5 | Clean Water Act Section 402 NPDES | The EPA has permitting authority for National Pollutant Discharge Elimination System (NPDES) discharge and construction within the Leech Lake and Fond du Lac Reservations |
| U.S. Army Corps of Engineers – St. Paul | Section 10/404 Individual Permit and associated state | Authorizes the discharge of dredged and fill material into waters of the United |

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| District and Minnesota Pollution Control Agency | 401 Individual Water Quality Certification | States, including wetlands, and crossing of navigable waters of the United States |
| U.S. Army Corps of Engineers – St. Paul District & Minn. Pollution Control Agency | Section 14 Rivers and Harbor Act, Section 408 Flowage Easement Permit | Authorizes construction activities within flowage easements |
| U.S. Fish and Wildlife Service | Section 7 Endangered Species Act consultation (federally protected species) | Establishes conservation measures and authorizes, as needed, take of federally protected species |
| U.S. Fish and Wildlife Service | Eagle Incidental Take or Eagle Nest Take Permit (Bald and Golden Eagle Protection Act protected birds) | Allows known Bald Eagle nests near construction activities to be removed, relocated, or destroyed. Also, allows for non-purposeful (incidental) take (disturbance, injury, or killing) of eagles during construction and/or operation activities |
| U.S. Forest Service and U.S. Department of Agriculture | Special Use Permit | Authorizes crossing of U.S. Forest Service land |
| Bureau of Indian Affairs | Right-of-Way Grant | Authorizes crossing of tribal trust land |
| Minnesota Department of Natural Resources | License to Cross Public Waters | 50-year license that allows a proposed utility to cross public waters |
| Minnesota Department of Natural Resources | License to Cross Public Lands | 50-year license that allows a proposed utility to cross public lands |
| Minnesota Department of Natural Resources | Water Appropriation Permit – Pipeline and Facilities | Authorizes withdrawal and use of water from surface water or groundwater sources |
| Minnesota Department of Natural Resources | State Endangered Species Permit and Avoidance Plan | Outlines plans for avoidance, minimization, and mitigation for take of state-listed endangered species |
| Minnesota Department of Natural Resources | Osprey Nest Removal Permit | Authorizes removal of inactive osprey nests |

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| Minnesota Department of Natural Resources | Fen Management Plan | Outlines plans for avoidance, minimization, and mitigation of fens within the Project corridor |
| Minnesota Department of Natural Resources | Infested Waters Transport Permit | Permits transport of waters with identified invasive species infestation |
| Minnesota Department of Natural Resources | Federal Consistency Review | Ensures that activities requiring a federal license or permit are consistent with the state's coastal management program |
| Minnesota Department of Natural Resources | Public Waters Work Permit | In instances when a license to cross permit is not required, work in the beds of public waters would require a work permit |
| Minnesota Pollution Control Agency | Clearbrook Terminal Air Quality Permit – Synthetic-Minor Individual State Operating Permit | Authorizes construction and operation at the modified Clearbrook terminal |
| Minnesota Pollution Control Agency | Clean Water Act Section 401 Water Quality Certification | Certification under the Clean Water Act Section 401 certifies that the Project will comply with state water quality standards if the Project complies with all permit conditions |
| Minnesota Pollution Control Agency | National Pollutant Discharge Elimination System (NPDES) Individual Construction Stormwater, Hydrostatic Test, and Trench Dewatering Permit – Pipeline Construction | Authorizes ground disturbance with approved protection measures to manage soil erosion and stormwater discharge on construction site; discharge of water from hydrotesting activities; and removal of water that may accumulate in pipeline trench |
| Minnesota Pollution Control Agency | NPDES General Construction Stormwater Coverage – Facilities | Authorizes groundwater disturbance with approved protection measures to manage soil erosion and stormwater discharge on construction site |
| Minnesota Pollution Control Agency | NPDES General Construction Stormwater | Authorizes ground disturbance with approved protection measures to manage |

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| | Coverage – Pipeyards and Contractor Yards | soil erosion and stormwater discharge on construction site |
| Minnesota Department of Health | Drinking Water Supply Management Area / Wellhead Protection Area Consultation | Ensures that pipeline construction and operation are compatible with goals of relevant plans |
| Minnesota State Historic Preservation Office | Cultural resources consultation; Section 106 of the National Historic Preservation Act, as amended – review and consultation with state agencies pursuant to Minnesota Statutes 138.665-666 and Minnesota Statutes 138.40 | Ensures adequate consideration of impacts on significant cultural resources |
| Minnesota Department of Agriculture | Agricultural Protection Plan | Establishes measures for agricultural protection |
| Minnesota Department of Transportation | Road Crossing Permits | Authorizes crossing of state jurisdictional roadways |
| Minnesota Board of Water and Soil Resources / Wetland Conservation Act Local Government Units | Notice of Intent to Utilize Federal Approvals for Utilities Project Exemption | Notice of use exemption required |
| Mississippi Headwaters Board | Local Land Use Review | Ensures compatibility with land use plan |
| Red Lake, Wild Rice, Two Rivers, and Middle-Snake Watershed Districts | Watershed District Permits | Authorizes crossing of legal drains and ditches within watersheds |
| Local/County | Permits Pertaining to Off-Right-of-Way Yard Use | Ensures compatibility with relevant land use plans |